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MARKUP OF A DISCUSSION DRAFT TO REAUTHORIZE THE SATELLITE TELEVISION  
EXTENSION AND LOCALISM ACT OF 2010

MONDAY, MARCH 24, 2014

House of Representatives,  
Subcommittee on Communications  
and Technology,  
Committee on Energy and Commerce,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 5:50 p.m., in Room  
2123, Rayburn House Office Building, Hon. Greg Walden [chairman of the  
subcommittee] presiding.

Present: Representatives Walden, Latta, Terry, Scalise,  
Barton, Eshoo, and Waxman (ex officio).

Staff Present: Gary Andres, Staff Director; Ray Baum, Senior  
Policy Advisor/Director of Coalitions, Mike Bloomquist, General

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Counsel; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Gene Fullano, Detailee, Telecom; Kelsey Guyselman, Counsel, Telecom; Brittany Havens, Legislative Clerk; Peter Kielty, Deputy General Counsel; Grace Koh, Counsel, Telecom; Alexa Marrero, Deputy Staff Director; David Redl, Chief Counsel, Telecom; Charlotte Savercool, Legislative Coordinator; Tom Wilbur, Digital Media Advisor; Phil Barnett, Staff Director; Jen Berenholz, Chief Clerk; Shawn Chang, Chief Counsel, Communications and Technology; and Margaret McCarthy, Professional Staff Member.

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Mr. Walden. I will call to order the Subcommittee on Communications and Technology, for the purpose of opening statements regarding our draft legislation to reauthorize the Satellite Television Extension and Localism Act.

Today we are taking the next step in the process toward reauthorizing the law that ensures the 1.5 million subscribers in hard-to-reach areas continue to receive broadcast content via their chosen satellite providers.

To get to the point, this subcommittee has held four hearings during this Congress alone, as well as additional hearings on the state of the video market in the previous Congress. Based on the information we have gathered in several of those hearings, Chairman Upton and I announced that we would launch a process to update the entire Communications Act, and we are not alone in recognizing that we need to get jazz age laws synchronized with the realities of the internet age.

In announcing the update of the Communications Act, Chairman Upton and I pointed out that the process would be deliberate and comprehensive. We want to give the complexities of these industries, the significant engines of our economy their full due.

Members across the aisle agreed, and as a result, this draft bill only targets changes to address issues in the current system and defers consideration of greater reforms to the AdCom Act update.

Now, in developing this draft, we drew on the testimony of our

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hearings as well as extensive dialogue with industry. Every member has met with satellite operators, broadcasters, and cable operators, among others, to discuss the right policy and to get to the right outcome. If you have not met with any of those people, we should talk about where you have been.

We have sought the input of our Democratic colleagues, and Ms. Eshoo and I have personally discussed the reforms contained in this bill, and I know we were in a meeting with Chairman Upton as well. Compromise and bipartisanship requires hard work, and that is what we have been about, but we have done it repeatedly in this subcommittee, and we hope to do it again here.

The work of this subcommittee has generated three unanimously passed bipartisan bills on internet governance, a topic we will take up more fully in a very short period of time. FCC consolidated reporting and FCC process reform.

STELA reauthorization can be another example of bipartisanship and one that I feel strongly about as we work to get a bill that gets through the House and into law with the President.

One section, obviously, that is important to me is Section 4 of the discussion draft which directs the FCC to do its job and complete the quadrennial review proceeding before moving forward piecemeal on media ownership issues. The hallmark of legitimate government is transparent and predictable processes. That is why we are here today. I am disappointed the commission has failed to live up to this standard

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in its 2010 review of ownership, which it has yet to complete, and in last week's announcement out of the FCC media bureau on JSAs.

The FCC's actions will have far reaching consequences for the video industry, and more importantly, the FCC's actions to deny public participation in that process, I think, violates the very spirit of public trust. But Democrats and Republicans alike have been wronged by the process failures of the FCC, and we have all spoken out about those at different times.

We should find common ground on this issue. I also urge Chairman Wheeler to take advantage of this time to consider whether the process improvements he has pledged should begin now with the media ownership proceedings.

I am hopeful we will be able to make a deal by tomorrow morning and look forward to advancing this important legislation to reauthorize the Satellite Home Viewer Act.

And with that, I would return the balance of my time and recognize my friend and colleague from California, the gentlelady, Ms. Eshoo.

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[The statement of Mr. Walden follows:]

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Ms. Eshoo. Thank you, Mr. Chairman.

I will put a full statement into the record. Let me just make a few comments.

I appreciated your calling me over the weekend. I am glad I got ahold of you the next day and we walked through essentially the three sections of the bill where we had some issues, 3, 4, and 6. I think that there is hope for working out, at least so far, on the set-top box issue. There were two concepts that I had discussed with you on the phone, and it is my understanding that essentially concept two is the one that you are willing to accept.

I don't think that this is really ready for prime time. That is the way I began my conversation with you on the phone because, you know, for the reasons that I expressed, but I do think that for, you know, for the sake of the order, so to speak, that we move on and that you are willing to give a commitment to really work these things out.

There is no question that you have the votes. You have the majority of the votes, so if you want to roll us, you can, but that has never been the tradition of the committee, it really hasn't. And if that was practiced, most frankly the bill, whatever the bill was, it never went anywhere.

So, I think that this is a huge sector of our national economy. We want it to continue growing, and as I said, I think that we still have some issues in Sections 4 and 6 that require work, that require negotiation, I think not just chats. It really requires some

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negotiation, and I am going to place my trust in the fact that that is exactly what it will be so that when we get to the full committee, that we will really have something to present to them.

So, with that, I will yield back the balance of my time, and I will place a full statement in the record. Thank you.

Mr. Walden. The gentlelady yields back the balance of her time.

[The statement of Ms. Eshoo follows:]

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Mr. Walden. And the Chair now recognizes the vice chairman of the subcommittee, Mr. Latta, for opening comments.

Mr. Latta. Thank you, Mr. Chairman, and thank you very much for holding this markup this afternoon.

The reauthorization of the Satellite Television Extension and Localism Act, or STELA, will ensure that over 1 million households across the country will not face the disruption or loss of service that they rely on. I am pleased that we are moving forward to advance this legislation and taking steps to protect those satellite television subscribers' access to broadcast TV.

I also support Chairman Walden's incorporation of the narrow reforms that will help foster further innovation and investment among all participants in the video marketplace and help develop opportunities for job creation and increase choice for consumers.

I also want to thank Chairman Upton and Walden again for accepting the provision of the bill H.R. 3196, which is the work I have done with Congressman Gene Green on this committee, on legislation that eliminates integration ban regulation on these set-top boxes. One of our responsibilities is to enact policies that remove barriers to investment, including outdated regulations that are counterproductive to economic growth, innovation, and consumer choice. Repealing the integration ban would facilitate this effort.

I am pleased with the legislation and look forward to working with my colleagues moving forward to identify other areas where we can better

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align laws with the 21st Century communications marketplace. I urge my colleagues to support this legislation, and again, Mr. Chairman, I really appreciate all the hard work you have done on this legislation.

And I yield back.

Mr. Walden. I thank the gentleman from Ohio, and I appreciate the good work he has done and the bipartisan nature of his work. Thank you, Bob, for the good effort there.

[The statement of Mr. Latta follows:]

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Mr. Walden. I now recognize the chairman for -- or the former chairman, chairman emeritus from California of this committee, Mr. Waxman for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman.

2 weeks ago, when we held the hearing on the legislation the subcommittee is going to consider tomorrow, I said I was not prepared to support the bill as drafted but that I wanted to work with Chairman Walden and Upton, Ranking Member Eshoo to put together a bill we could all support. I am glad to report that we are making progress. We still have some issues to work through, but thanks to the leadership of Chairman Walden and Ranking Member Eshoo, we are making progress.

One area where progress is clear to me is on the issue of the set-top boxes. I expect tomorrow Representative Eshoo will introduce a proposal as an amendment that will get bipartisan support. There are outstanding issues we still need to address. Namely, the concerns in Section 4 of the discussion draft. I share my Republican colleague's desire to see the FCC complete the long overdue quadrennial review of the media ownership rules, but this provision would go further by restricting the FCC from addressing coordination between broadcasters that is undermining local news and the diversity of viewpoints from different broadcast outlets that our constituents need.

I cannot support the provision as drafted. I want to work with the chairman and the ranking member, and I hope he will continue to

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give us his commitment that we will work together to see if we can remove this language before we get to full committee. Is that a commitment I can count on, Mr. Chairman?

Mr. Walden. Well, if the gentleman will yield.

Mr. Waxman. Yes.

Mr. Walden. I think -- I believe our commitment is that we would bracket that language and continue to have that discussion between here and the full committee.

Mr. Waxman. That is my understanding as well. Thank you.

Lastly, I remain concerned that Section 3, as drafted, does not operate consistent with my colleague's stated intent, and I hope these concerns can be addressed.

Mr. Chairman, I look forward to working with you to resolve our outstanding differences before the full committee markup. I yield back my time.

Mr. Walden. The gentleman yields back the balance of his time, and I thank the gentleman and his staff, and the ranking member's staff for the work they have done with our staff over the intervening period of time, and the suggestions that you put forward, I think, have been in good faith, and we have tried to work on those and obviously made some progress.

[The statement of Mr. Waxman follows:]

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Mr. Walden. So, with that, I would now recognize the gentleman from Nebraska, Mr. Terry, for an opening statement.

Mr. Terry. Thank you, Mr. Chairman, and I do believe that this markup is pretty timely.

And at issue here is the live content like what we watched over the weekend, the NCAA tournament, except for the debacle in San Antonio last night. But you can't really binge and watch March Madness on your TV or iPad months after the event. Yes, you can watch some of the games on cbs.com, which even has a Boss button. I don't think there is anybody in the audience that knows what that is, though, but live content like sports is still sold primarily through the system Congress set up which allows pay TV providers like satellite operators to buy the rights from broadcasters and other content owners. Local content like broadcast news is also sold through the same system.

As the son of a former newscaster of KETV in Omaha, I am pleased that the legislation we consider today supports our local broadcasters, especially with their local programming, in their endeavors to continually serve the local communities. And by the way, my job on Saturdays was to put the weather symbols up on the weather map for the weekend crew to come in. So, if Omaha was sunny, I would put the sunny magnet up. That is dating the years that my dad was the anchor.

And I am pleased that this bill addresses some of the issues that have been very, very difficult to confront, and I have always been very reluctant to get in between pay TV operators and content owners as they

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negotiate their carriage deals. Nonetheless, there is a pattern showing an increasing in broadcast blackouts where broadcasters and pay TV providers can't come to an agreement, from 51 in 2011 to 91 in 2012 to 127 in 2013. Some rural pay TV carriers have even gotten out of the pay TV business all together in favor of an internet-based model because of the cost of content.

The modest updates this bill provides are appropriately aimed at blackouts and content cost. Meanwhile, the larger market shifts as video migrates to mobile and IP connections, these should be addressed in the broader Communications Act update. In essence, this is a rehearsal for the real issues that come before this committee.

And I thank you for the time today, Mr. Chairman. I look forward to seeing STELA reauthorization as it works its way through the other subcommittees and on to final passage.

Mr. Walden. I thank the gentleman for his opening statement, his good work on this legislation.

[The statement of Mr. Terry follows:]

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Mr. Walden. And would now recognize the gentleman from Louisiana, Mr. Scalise, for 5 minutes.

Mr. Scalise. Thank you, Mr. Chairman.

Yesterday in the French Quarter of New Orleans you had grown men yelling "Stella," and I am not sure if they were clamoring --

Mr. Walden. It is about a --

Mr. Scalise. -- for me to come back to Washington and help deliver that message to you that we need to pass this bill. Maybe it was part of the Tennessee Williams Festival that went on in the French Quarter yesterday where they pay homage to A Streetcar Named Desire, and yes, grown men were yelling ripping off their shirts yelling "Stella," and they get judged and rewarded.

Mr. Walden. How did you do?

Mr. Scalise. Fortunately, I viewed it in my press shop, especially I did not participate in that contest yesterday, but I did watch it on the news with great interest as we do every year and pay tribute to Tennessee Williams with a great festival in the French Quarter and people yelling "Stella," and different people yelling it for different reasons here today.

But the bill that is under consideration begins to peel back the layers of outdated and restrictive laws and video rules and regulations that are now decades old and work against our consumers and risk-taking job creators. For some that like to say the current video rules and retransmission consent negotiations take place in a free market, I

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would like to point out that this STELA bill dispels that myth with the repeal of the sweeps rule, which is just one provision of an entire law called the 1992 Cable Act that lays out a long and specific list of dos and don'ts between content creators and video providers.

So, on one hand, it is true that we live in the freest country in the world, but on the other, it is quite a stretch to say that these negotiations occur without the heavy hand of government mandating when and where local stations can be carried and how consumers can buy certain channel packages. Unfortunately, the rules are clear in that these mandates work against consumers and job creators in our districts all across the country.

So let me conclude by saying that in an effort to promote more freedom for all stakeholders involved, I will look forward to a more comprehensive review and reform of the entire suite of communications laws and FCC regulations in the near future to couple with this bill that is under consideration today.

So, with that, I thank you, Mr. Chairman, and yield back the balance of my time.

Mr. Walden. I thank the gentleman. Maybe next year at the Stella awards you can give it a shot. We will make sure it is broadcast live. If not, someone will.

[The statement of Mr. Scalise follows:]

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Mr. Walden. Did you want to clarify, Ms. Eshoo, the --

Ms. Eshoo. Oh, I did, Mr. Chairman. Thank you for yielding me a moment.

When I made my verbal opening statement, I said that I looked -- that there were two sections that we needed to work on, 4 and 6. It should be 3 and 4, just to be clear so that we really know what we are working on as if we don't know, right.

But thank you, and I yield back.

Mr. Walden. The gentlelady yields back.

Anyone else want to do an opening statement? If not, the Chair reminds members that pursuant to committee rules, all members' opening statement will be made part of the record.

There are no other opening statements to be given, and so --

Mr. Barton. Mr. Chairman.

Mr. Walden. Well, now we save the best for last.

The gentleman making his way all the way up here from Texas, Mr. Barton, we are delighted you are here. We look forward to your words of wisdom, and you have a grand total of 3 minutes to enlighten us about a law you have worked on over and over and over again. So, I'll let you catch your breath and continue to ad lib here, unless you are ready.

Mr. Barton. No, no I am fine, Mr. Chairman.

Mr. Walden. All right. You have 3 minutes.

Mr. Barton. Thank you, sir, and I didn't realize that there were that few opening statements. I have been in my office meeting with

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home healthcare people from Texas and watching the various members, and I finished that meeting, was coming down, and all of a sudden, as I walk through, I heard you saying that there are no other members present, and I did have to accelerate right here at the end to get in here.

But having said that, Mr. Chairman, and ranking member, tomorrow's markup is going to be the sixth markup that I have participated in regarding the issue of allowing satellite providers to operate efficiently and effectively. I do support the reauthorization of the Satellite Television Extension and Location Act, which we refer to colloquially as STELA, and I want to commend you, Mr. Chairman, and the full committee chairman, and Ms. Eshoo and others for working to find the common ground or the middle ground on the reauthorization.

As you all know, when we first started out, there were some disagreements among the stakeholders. I am told that most of those disagreements have now been settled and that the broadcasters and the satellite providers kind of are in general agreement about this legislation. That is a good thing, not a bad thing. I am happy that you are going to have an open markup tomorrow at subcommittee. I look forward to participating in that markup, and hopefully, we will continue the markup in the tenor that we have continued the whole issue so far this year, is openness and transparency.

And with that, Mr. Chairman, thank you for the courtesy of keeping

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the opening statements open so I can make a statement, and I yield back.

Mr. Walden. I thank the gentleman for his opening statement, his kind comments, and your great leadership over the years on this issue that brings us to this point, so we look forward to our markup tomorrow. With that, he returns the balance of his time.

[The statement of Mr. Barton follows:]

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Mr. Walden. The chair now calls up the committee print and ask the clerk to report.

The Clerk. Discussion draft to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations and for other purposes.

Mr. Walden. Without objection, the first reading of the bill is dispensed, and the bill will be open for amendment at any point. So ordered.

For the information of members, we are now on the committee print, a bill to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations and for other purposes.

The committee will reconvene at 10:30 a.m. tomorrow.

I remind members that the chair will give priority recognition to amendments offered on a bipartisan basis.

I look forward to seeing all of you tomorrow.

Without objection, the subcommittee now stands in recess.

[Whereupon, at 6:10 p.m., the subcommittee recessed, to reconvene at 10:30 a.m., Tuesday, March 25, 2014.]